

HOUSE BILL NO. 302

INTRODUCED BY DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING THE DISSEMINATION OF INFORMATION BY A BOARD OF TRUSTEES OR A SCHOOL SUPERINTENDENT OR A DESIGNATED EMPLOYEE IN A DISTRICT WITH NO SUPERINTENDENT RELATED TO A BOND ISSUE OR LEVY SUBMITTED TO THE ELECTORS AS "PROPERLY INCIDENTAL TO ANOTHER ACTIVITY REQUIRED OR AUTHORIZED BY LAW"; AMENDING SECTIONS 2-2-121 AND 13-35-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

(3) (a) ~~Except as provided in subsection (3)(b),~~ a public officer or public employee may not use public

time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;

(ii) ~~the~~ IN THE CASE OF A SCHOOL DISTRICT, AS DEFINED IN TITLE 20, CHAPTER 6, COMPLIANCE WITH THE REQUIREMENTS OF LAW GOVERNING PUBLIC MEETINGS OF THE LOCAL BOARD OF TRUSTEES, INCLUDING THE RESULTING dissemination of information by a board of trustees or a school superintendent OR A DESIGNATED EMPLOYEE IN A DISTRICT WITH NO SUPERINTENDENT related to or in support of OR OPPOSITION TO a bond issue or levy submitted to the electors. PUBLIC FUNDS MAY NOT BE EXPENDED FOR ANY FORM OF COMMERCIAL ADVERTISING IN SUPPORT OF OR OPPOSITION TO A BOND ISSUE OR LEVY SUBMITTED TO THE ELECTORS.

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

(4) A public officer or public employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing agency that is within the scope of the public officer's or public employee's job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(5) A public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the public officer or public employee is a member while performing the public officer's or public

1 employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from
2 performing charitable fundraising activities if approved by the public officer's or public employee's supervisor
3 or authorized by law.

4 (6) A department head or a member of a quasi-judicial or rulemaking board may perform an official act
5 notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute
6 and if the person complies with the disclosure procedures under 2-2-131.

7 (7) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless
8 the member is also a full-time public employee.

9 (8) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government
10 from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise
11 enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to
12 performing the official act."

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14 **Section 2.** Section 13-35-226, MCA, is amended to read:

15 **"13-35-226. Unlawful acts of employers and employees.** (1) It is unlawful for any employer, in paying
16 employees the salary or wages due them, to include with their pay the name of any candidate or any political
17 mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to
18 influence the political opinions or actions of the employees.

19 (2) It is unlawful for an employer to exhibit in a place where the employer's workers or employees may
20 be working any handbill or placard containing:

21 (a) any threat, promise, notice, or information that, in case any particular ticket or political party,
22 organization, or candidate is elected:

23 (i) work in the employer's place or establishment will cease, in whole or in part, or will be continued or
24 increased;

25 (ii) the employer's place or establishment will be closed; or

26 (iii) the salaries or wages of the workers or employees will be reduced or increased; or

27 (b) other threats or promises, express or implied, intended or calculated to influence the political
28 opinions or actions of the employer's workers or employees.

29 (3) A person may not coerce, command, or require a public employee to support or oppose any political
30 committee, the nomination or election of any person to public office, or the passage of a ballot issue.

1 (4) A public employee may not solicit support for or opposition to any political committee, the nomination
2 or election of any person to public office, or the passage of a ballot issue while on the job or at the place of
3 employment. However, subject to 2-2-121, this section does not restrict the right of a public employee to perform
4 activities properly incidental to another activity required or authorized by law or to express personal political
5 views.

6 (5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by the
7 commissioner of political practices or a county attorney pursuant to 13-37-124 and 13-37-125."
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9 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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